

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, September 7, 2005, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, July 27, 2005 Worksession.

Action: Approved, (LLM/WMH, 4-0).

2. **A-6098, Petition of Marc R. and Marianne H. Duffy** (new single-family dwelling). Letter to the Board from Martin J. Hutt, Esquire, requesting an expedited hearing.

Action: (1) Granted expedited hearing request; (2) new hearing date is 9/28/05 @ 9:30 a.m., (AMC/WMH, 4-0).

3. **CBA-1332 [CBA-857, S-104], Petition of Huggins and Harrison, Inc.** (outdoor auto sales lot). Letter to Board from Stuart Barr, Esquire, requesting reconsideration or modification of condition. Also included is a letter from Rachel T. McGuckian, Esquire, for the Town of Kensington in opposition to the request for reconsideration or modification of condition.

Action: (1) Re-opened the record to include letters from Mr. Barr and Ms. McGuckian; (2) denied request for reconsideration, (LLM/AMC, 4-0).

4. **CBA-2094, Petition of Herbert H. Hughes, D.D.S.** (trailer court). Memorandum from Stanley N. Garber, Investigator, Department of Permitting Services (DPS), notifying the Board that special exception has been abandoned and requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/WMH, 4-0).

5. **CBA-2568, Petition of UTF-Maryland Limited Partnership** (automobile filling station). Letter to the Board from Stanley D. Abrams, Esquire. (Large exhibits: site and landscape plans). Show Cause Hearing held 6/22/05.

Action: Item deferred to 9/14/05 Worksession, consensus.

6. **CBA-2778 [CBA-2778-A], Petition of Milton O. Johnson** (horticultural nursery and landscaping contractor). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Also included are letters from William Chen, Esquire. (Large exhibit: planimetric survey).

Action: Schedule Show Cause Hearing, (AMC/LLM, 5-0).

7. **S-485, Petition of Laurence and Anne Karpman** (antique shop). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/AMC, 5-0).

8. **S-550 [S-550-A, CBA-2998], Petition of Shirley Sardino and China Coast, Inc.** (antique shop). Letters to the Board from Moussa Moaadel and Shirley Sardino requesting an administrative modification. (Large exhibit: preliminary plan).

Action: Item deferred for additional information from the petitioners, consensus.

9. **S-707 [S-786, S-786-S], Petition of McDonald's Corporation [Joseph Montoya, Owner/Operator]** (drive-in restaurant). Letter from the petitioner requesting an administrative modification.

Action: Item deferred to 9/14/05 Worksession, consensus.

10. **S-774, Petition of Exxon Corporation** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire. (Large exhibits: site development plan and construction details plan).

Action: Item deferred to 9/14/05 Worksession, consensus.

11. **S-800, Petition of Montrose Office Carry Out Center, Inc.** (retail establishment). Letter from Sang Soon Kim requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (AMC/WMH, 4-0).

12. **S-850, Petition of Amoco Oil Company** (automobile filling station). Letter from Susan W. Carter, Esquire, requesting a transfer of the special exception.

Action: Item deferred to 9/14/05 Worksession, consensus.

13. **S-874 [S-874-A], Petition of Nicholas Strates, Pete Strates, and Athena Strates** (horticultural nursery and commercial greenhouse). Memorandum from Stanley N. Garber, Investigator, DPS, notifying that Board that the special exception has been abandoned and requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (AMC/WMH, 4-0).

14. **S-882-A, Petition of Rene Monserrat and Emilio A. Brouwer** (horticultural nursery and commercial greenhouse). Memorandum from Françoise M. Carrier, Director, Office of Zoning and Administrative Hearing (OZAH), returning the record to the Board.

Action: (1) Re-opened the record to include Ms. Carrier's memorandum; (2) continued Show Cause Hearing, (LLM/AMC, 4-0).

15. **S-1640, Petition of George B. Patrick, Jr., M.D.** (non-resident medical practitioner). Letters to the Board from the petitioner requesting an administrative modification. (Large exhibits: site plan, demolition plan, and construction details).

Action: Granted administrative modification, (AMC/WMH, 4-0).

16. **S-1654, Petition of Bell Atlantic Mobile Systems** (public utility structures, public utility buildings, and telecommunications facilities). Letter from M. Gregg Diamond, Esquire, notifying the Board that the special exception is now a permitted use and requesting that it be revoked.

Action: Revoked special exception as use now permitted in the zone, (WMH/AMC, 4-0).

17. **S-1861, Petition of Michael and Mari-Ellen Uzzo** (landscape contractor). Update to the Board from the petitioner.

Action: Re-opened the record to include the update from the petitioner, (AMC/WMH, 4-0).

18. **S-2586, Petition of Dale Rubenstein, D.V.M. t/a A Cat Clinic.** (veterinary hospital). Letter from the petitioner notifying the Board of the special exception signage approval.

Action: Re-opened the record to include the letter from the petitioner, (LLM/AMC, 4-0).

19. **S-2653, Petition of International Investments, Inc.** (horticultural nursery). Letter to the Board from Stanley D. Abrams, Esquire, on behalf of Bennett H. Goldberg and requesting that the special exception be dismissed. Opened record to include Mr. Abrams' letter; (2) applicant required to file completed application by 9/7/05 or petition will be dismissed for insufficiency. Also included is a letter from Bill DeWitt requesting that the special exception be withdrawn without prejudice and a letter from Kim and Kerry Taylor [large exhibit: survey of Lots 31 and 32].

Action: (1) Dismissed special exception without prejudice; (2) granted 50% (\$3125.00) refund of the filing fee, (LLM/AMC, 4-0).

20. **S.E. 99-2, Petition of Gate of Heaven Commentary.** Letter to the Board from Elsie L. Reid, Esquire, concerning future administrative modification request. Also included is memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (WMH/LLM, 4-0).

DECISION ITEMS:

21. **S-289-B, Petition Little Falls Swim and Tennis Club** (community swimming pool). Supplemental Hearing Examiner's Report and Recommendation. Also included is an Inspection Report from Tom Ogle, Noise Program Manager, Department of Environmental Protection (DEP).

Action: Item deferred to 9/14/05 Worksession, consensus.

22. **S-2628, Petition of Himalayan Elderly Care II, Inc.** (group home). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's report and recommendation; (2) granted the special exception with conditions, (LLM/WMH, 4-0).

23. **S-2631, Petition of Germantown Walter Johnson Property, LLC,** (automobile filling station). Hearing Examiner's Report and Recommendation.

Action: Item deferred to 9/14/05 Worksession, consensus.

PENDING ITEMS:

24. **A-6018, Appeal of Karen Day** (Department of Permitting Services (DPS) – Notice of Violation). Letter from Malcolm F. Spicer, Jr., notifying the appellant that the Notice of Violation has been withdrawn and that this action moots the action of the County. (1) Re-opened the record to include Mr. Spicer's letter; (2) letter sent to the appellant to withdraw the appeal with 30 day response time. [W/S 5-18-05].

25. **CBA-123 [S-462, S-1353], Petition of Sondra J. Littlejohn** (home occupation). Inspection report to the Board from Stanley N. Garber, Investigator, Department of Permitting Services (DPS). Re-opened the record to include Mr. Garber's memorandum. [W/S 10-20-04].

26. **CBA-1801, Petition of Shell Oil Company** (automobile filling station). Letter to the Board from Ramesh C. Bhalla requesting an administrative modification. Item deferred to a future Worksession. [W/S 6-8-05].

27. **CBA-2114-A [CBA-2114], Petition of International Monetary Fund** (golf course and country club). Letter to the Board from Jacqueline M. Karp, Esquire, requesting an administrative modification. (Large exhibits: location map, golf course site plans, elevations). Item deferred for a future Worksession. [W/S 5-4-05].

28. **CBA-3057, Petition Chevron USA** (automobile filling station). Letter to the Board from John Hutchinson requesting a transfer of the special exception. Deferred request until the Show Cause Hearing. [W/S 9-29-04].

29. **S-390, Petition of Twin Farms Club, Inc.** (community swimming pool). Letter to the Board from Teresa A. McKenna, President, requesting an administrative modification. (Large exhibit: site and grading plan). (1) Item deferred for receipt of a site plan with the existing conditions; (2) item referred to M-NCPPC Technical Staff for review of administrative modification request. W/S 2-18-04].

31. **S-684, Petition of Burkland Condominium Association, Inc.** (dental/medical clinic). Memorandum from Stanley N. Garber, Investigator, DPS, regarding the conditions of the Board's Resolution. (1) Re-opened the record to include Mr. Garber's memorandum; (2) Board to issue corrected Resolution; (3) an additional inspection of the special exception will be required. [W/S 7-13-05].

PENDING ITEMS continued:

32. **S-727, Petition of Robert M. Mueller, D.V.M.** (non-resident professional office). Inspection report from Stanley N. Garber, Investigator, DPS. (1) Re-opened the record to include Mr. Garber's inspection report; (2) special exception holder has 40 days to comply with special exception conditions; (3) item will return to the Board's to Worksession agenda after compliance period (1/5/05). [W/S 11-10-04].
33. **S-1437, Petition of John D. Hyman** (wholesale nursery and landscape contractor). Letter to the Board from Timothy Dugan, Esquire. Granted extension to resolve Notice of Violation until 4/1/05. [W/S 1/5/05].
35. **S-1835, Petition of Patricia Haseman and Richard Mason** (private riding stable). Letter from Christine Reilly Lombardo notifying the Board that the special exception has been abandoned and requesting that it be revoked. Item deferred for future Worksession for staff to contact Mr. Lombardo. [W/S 7/27/05].
36. **S-1903, Petition of Exxon Company, U.S.A.** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification. Item deferred for an approved landscape and lighting plan. [W/S 11/12/03].
37. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from Brian Hurley, Regional Real Estate Manager, requesting a transfer of the special exception. Item deferred for future Worksession. [W/S 6/9/04].
38. **S-2487, Petition of Orchard Development Corporation** (housing and related facilities for the elderly or handicapped). Letter to the Board from Scott Armiger, Vice President, requesting an administrative modification. (Large exhibits: landscape and lighting plan and as-built site plan). Item deferred for additional information from the petitioner. [W/S 4-20-05].
39. **S-2524, Petition of Two Goshen Oaks Center, LLC and Seven-Eleven, Inc.** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Deferred for DPS review of the record. [W/S 9-22-04].
40. **S-2580, Petition of Margaret Walker-Bruce** (accessory apartment). Letter to the Board from the petitioner modifying the floor plan of the accessory apartment. Referred new plans for DHCA review. [W/S 10-20-04].
41. **S-2596, Petition of Washington Gas** (public utility buildings, public utility structures and telecommunications facilities). Letters to the Board from Brian and Dian Belanger concerning construction on the special exception site. Item will be returned to the Board's Worksession on 9-21-05. [W/S 7-13-05].

Board Members

Allison Ishihara Fultz, Chair
Donna L. Barron, Vice Chair - ABSENT
Louise L. Mayer
Angelo M. Caputo
Wendell M. Holloway

Staff

Barbara Jay, Associate County Attorney
Katherine Freeman, Director
Hermene Jones, Administrative Specialist

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WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, September 7, 2005, 9:30 a.m.

ACTION ITEM:

1. **A-6076, Appeal of Robert Kirchiro** (Department of Permitting Services – Notice of Violation, dated April 22, 2005). Letter to the Board from Doris R. Raffel, Esquire, withdrawing the appeal.

Action: Dismissed the appeal as withdrawn, (AMC/WMH, 4-0).

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